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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,098	12/20/2001	Darrell C. West	6321-206	3444
7590	10/14/2003		EXAMINER	
Gregory A. Nelson AKERMAN, SENTERFITT & EIDSON, P.A. 222 Lakeview Avenue, Suite 400 P.O. Box 3188 West Palm Beach, FL 33402-3188			BRUCE, DAVID VERNON	
			ART UNIT	PAPER NUMBER
			2882	

DATE MAILED: 10/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/029,098	WEST ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	David V Bruce	2882	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 August 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-14,18,25-47 and 49-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3-14,18,38-47 and 49-59 is/are allowed.
- 6) ☒ Claim(s) 25,28,36 and 37 is/are rejected.
- 7) ☒ Claim(s) 26,27 and 29-35 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. The indicated allowability of claims 25-37 is withdrawn in view of the newly discovered reference(s) to Garms, III US 6,597,761 B1. Rejections based on the newly cited reference(s) follow.

#### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 25, 28, 36, and 37 are rejected under 35 U.S.C. 102(e) as being anticipated by Garms. III US 6,597,761 B1. Garms, III shows all of the features of the instant invention including 3D, x-ray, CT imaging of wood and separating the wood into categories based on a resolvable feature of the CT image (abstract, column line 17 through column 4 line 5, column 4 line 65 through column 5 line 8, column 7 lines 38 through 53, and column 12 line 58 through column 13 line 10).

#### ***Allowable Subject Matter***

3. Claims 1, 3-14, 18, 38-48, and 49-59 are allowed.

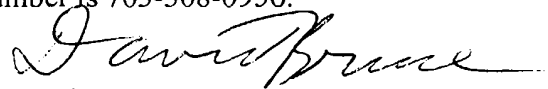
4. Claims 26-27 and 29-35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter: Claims 1, 3-14, 18, 47, and 49-59 are allowable for Applicant's reasons which are of record. Claims 38-46 are allowable for reasons that are of record. Claims 26, 17, and 29-35 address sorting cellulose containing products based on a CT image of the product where the a cell dimension is determined, the resolvable feature is less than 100  $\mu\text{m}$ , or the cellulose containing product is a reconstituted wood product. These features are neither shown nor fairly suggested in the prior art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David V Bruce whose telephone number is 703-308-0856. The examiner can normally be reached on M - Th and alt Fri 8:00 - 4:30 subject to I-Flex..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward J Glick can be reached on 703-308-4858. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.



David V Bruce  
Primary Examiner  
Art Unit 2882

dvb